UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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RICHARD ROSARIO,

Plaintiff,

18 Civ. 4023 (LGS)

-against-

<u>ORDER</u>

CITY OF NEW YORK, et al.,

Defendants. :

. -----X

LORNA G. SCHOFIELD, District Judge:

WHEREAS, the jury trial in this case is scheduled to begin on July 25, 2022, at 9:45 a.m.

WHEREAS, the Court has determined that under the circumstances, including the current state of the COVID-19 pandemic, a juror questionnaire will be used in aid of voir dire. It is hereby

ORDERED that by **May 25, 2022**, the parties shall jointly file a proposed juror questionnaire, prepared with reference to the previously approved voir dire questions and a sample from a recent civil trial, which are attached hereto. The parties should indicate any disagreement through footnotes or highlighted text.

Dated: May 18, 2022

New York, New York

Lorna G. Schofield

UNITED STATES DISTRICT JUDGE

VOIR DIRE EXCERPT Richard Rosario v. The City of New York, et al.,

18 Civ. 4023

V. OUTLINE OF THE CASE

As I mentioned before, this is a civil case.

You may hear the term "plaintiff" and "defendant." In this case, the plaintiff is Richard Rosario, a private citizen. The defendants are Charles Cruger, Richard Martinez and Gary Whitaker, who were police officers with the New York City Police Department. The City of New York is also a defendant. The term "plaintiff" just means the party who brought the lawsuit, and "defendant" means the person who was sued. You must not attach any significance to the terms "plaintiff" and "defendant" in weighing the evidence. I'm going to refer to each party to this lawsuit by just their last name. I don't mean them any disrespect by doing that. It will just take less time and paper.

Richard Rosario was arrested on July 1, 1996, for the Bronx murder of Jorge Collazo. In 1998, a jury convicted Rosario of the murder and he was sentenced to prison. In 2016, after nearly twenty years in custody, Rosario's conviction was vacated, and he was freed from prison. In this lawsuit, Rosario claims that the Defendants violated his constitutional rights and caused him to be wrongly prosecuted for murder. Each of the Defendants deny any wrongdoing and assert that they acted properly in arresting and prosecuting Rosario. This is just a summary of the parties' claims and defenses.

Under the law, the facts are for the jury to determine and the law is for the Court. The two areas are separate and distinct. At the beginning of the case and again at the end of the case, I will instruct you on the law, and you are required to accept the law as I explain it to you. It will

be your job to determine the facts under my explanation of the law.

VI. <u>INTRODUCTORY QUESTIONS ABOUT THE CASE</u>

Those of you who were not chosen as part of the sixteen, please make a note if you would answer yes to any of these questions so that if you are called up later, you can tell me about it.

First, let me ask some very general questions.

- 1. Is there anyone who before today has heard or read about this lawsuit or the events leading up to it? Is there anyone who believes that he or she cannot be fair and impartial in a case involving these allegations?
- 2. Is there anyone who believes that he or she cannot be fair and impartial in a case involving Richard Rosario, Gary Whitaker, Irwin Silverman, Charles Cruger, Joseph Fortunato, Richard Martinez, Edward Monks and the City of New York?
- 3. Is there anyone who believes that he or she will not be able to apply the law as I explain it, including about how much if any money any party may recover, even if they disagree with it?
- 4. Do any of you have any physical or personal problems that would prevent you from serving in this case, which is expected to last a little less than two weeks?
- 5. Do any of you have any difficulty with your sight or hearing that could affect your perception of the proceedings?
- 6. Are you taking any medication that would prevent you from giving your full attention to all the evidence?
- 7. Does any juror have any difficulty in reading or understanding English?

8. Does anyone NOT live in Manhattan, the Bronx, or one of the following counties:
Westchester, Rockland, Putnam, Orange, Dutchess or Sullivan? [All in SDNY]. Does
anyone live in Queens? Brooklyn? Staten Island? [Not SDNY].

VII. CASE SPECIFIC AND OTHER FOR CAUSE QUESTIONS

Now I will ask some questions that are more about this case.

- 1. Have you or has anyone close to you ever been employed by a local, state, or federal government agency?
- 2. Have you or has anyone close to you ever been employed by a New York City agency or any other city agency such as the department of corrections, police department, fire department, or sanitation department? Is there anything about your employment with that agency that would affect your ability to be fair and impartial in this case?
- 3. Do you or does anyone close to you work in law enforcement?
- 4. Have you or has anyone close to you ever attended any protests or demonstrations related to police activity, whether for or against? Is there anything about that experience that would affect your ability to be fair and impartial in this case?
- 5. Have you or has anyone close to you ever been the victim of or eyewitness to a violent crime? [Speak to juror privately]
- 6. Have you or has anyone close to you ever had an interaction with a law enforcement officer that would affect your ability to be fair and impartial in this case? [Speak to juror privately]
- 7. Have you or has anyone close to you ever been detained in a jail, prison, or other correctional facility? [Speak to juror privately]

- 8. Have you or has anyone close to you ever been charged for a crime you or they did not commit? [Speak to juror privately]
- 9. Do you believe that a police officer is more likely to tell the truth simply because he or she is a police officer?
- 10. Would you tend to give more or less weight to the testimony of a witness who is a law enforcement officer or prosecutor than other witnesses?
- 11. Have you or has anyone close to you ever been a party to a lawsuit?
- 12. Have you ever served on a grand jury? Where? When?
- 13. Have you ever served on a trial jury? If so, was it civil or criminal? Did the jury reach a verdict? (Do not tell us what the verdict was.)
- 14. Do you or does anyone close to you have legal training? If so, would this prevent you from applying the law as I instruct you? Will each of you (the entire venire) accept my instruction that you are not to discuss the case with anyone, including attorneys you may know, until you are excused as jurors?

VIII. <u>INTRODUCTION TO THE PARTIES AND COUNSEL</u>

- 1. I'm going to ask each person to stand and briefly remove your mask as you are introduced. The Plaintiff is Richard Rosario. Do you know, or have you had any dealings with him?
- 2. Mr. Rosario is represented by attorneys Nick Brustin, Emma Freudenberger, Anna Hoffman, and Katherine Haas from the firm Neufeld Scheck & Brustin, LLP. Do any of you know any of them or have you had any dealings with them or their firms?

- 3. The Defendants are Gary Whitaker, Richard Martinez, Charles Cruger and the City of New York. Do you know, or have you had any dealings with them?
- 4. The Defendants are represented by Brachah Goykadosh from the New York City Law Department. Do you know [him/her] or have you had any dealings with [him/her] or the New York City Law Department?
- 5. Have any of you or anyone close to you ever been employed by or applied for employment with these law firms or the New York City Law Department?
- 6. Have you or has anyone close to you ever had a dispute with these parties or their lawyers?
- 7. Do you know any of the other potential jurors?
 Do you know me or any of my staff?

IX. <u>WITNESS INTRODUCTION</u>

I will now read you the names of potential witnesses and other people who may be mentioned during the trial. My including a name, however, imposes no obligation on any party to call that person as a witness. Some of these individuals might not testify. My question is whether you personally know or have had any dealings with the following people (or places):

1/3/2022 FINAL

- 1. Bhushan Agharkar, M.D., D.F.A.P.A.
- 2. Charles Cruger
- 3. Robert Davis
- 4. Jennifer Dysart, Ph.D.
- 5. Steven Fayer, M.D.
- 6. Detective Joseph Fortunato
- 7. Alexis Gonzalez
- 8. Assistant District Attorney David Greenfield
- 9. Joyce Hartsfield
- 10. Patrick Hoffman
- 11. Steven Kaiser
- 12. Lymari Leon
- 13. Carl Loewenson, Jr.
- 14. Carlos Maldonado, Jr.
- 15. Richard Martinez
- 16. Vivene Martinez
- 17. Detective Edward Monks
- 18. DeAnsin Parker, Ph.D
- 19. Jeanne Petrauskas
- 20. Assistant District Attorney Jeanne Petrauskas
- 21. Richard Rosario
- 22. Minerva Rosario
- 23. Chenoa Ruiz
- 24. Michael Sanchez
- 25. Michael Serrano
- 26. Irwin Silverman
- 27. Dan Slepian
- 28. Fernando Torres
- 29. Jenine Torres
- 30. John Torres
- 31. Nicole Torres
- 32. Detective John Wall
- 33. Gary Whitaker

Juror ID:	
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PRELIMINARY INSTRUCTIONS

The purpose of this questionnaire is to provide information to the Court and the attorneys in this case, so that they can determine whether you can be a fair and impartial juror. Please read the following instructions carefully before completing any portion of this questionnaire. Please print your juror number in the space provided at the top of each page.

YOU ARE SWORN TO GIVE TRUE AND COMPLETE ANSWERS TO ALL QUESTIONS IN THIS QUESTIONNAIRE. The questions are not intended to inquire unnecessarily into personal matters. Although some of the questions may appear to be of a personal nature, please understand that the Court and the parties must learn enough information about each juror's background and experiences to select a fair and impartial jury.

Please answer every question. If you do not understand a particular question or do not know the answer, please write either "I do not understand" or "I do not know." If you feel a question does not apply to you write "N/A." Please answer each question fully. Some questions have more than one part. There are no "right" or "wrong" answers, only truthful answers. Remember, you are sworn to give true and complete answers to all questions.

If you need extra space for any answer, please use the blank sheets of paper included at the end of the questionnaire. Be sure to indicate on the blank page the number of the question you are answering. Do not write anything on the back of any page.

If you believe that any of your answers contain private information that could embarrass you or otherwise seriously compromise your privacy and wish to request that the Court keep them confidential and not distribute them beyond the judge and the attorneys in the case, you may indicate that on one of the blank pages at the end of this form. (Please identify the <u>specific</u> answer or answers that you believe should remain confidential.) After a jury has been selected, all copies of your responses to the questionnaire will be destroyed, except one copy which the judge will keep.

DO NOT DISCUSS YOUR QUESTIONS AND ANSWERS OR THE CASE WITH ANYONE, NOW OR UNTIL FURTHER INSTRUCTED BY THE COURT. You should not discuss the questions or answers with fellow jurors. It is very important that your answers be your own individual answers. More broadly, do not discuss the case with anyone, including the lawyers, your fellow jurors, your family, your friends, or anyone else. Do not communicate about the case in any way, including by text, telephone, e-mail, or social media (like Facebook or Twitter). You must also avoid reading or hearing about the case (or anyone participating in the case) in newspapers, in magazines, on the radio or television, or on the Internet.

DO NOT READ, WATCH, OR LISTEN TO ANY INFORMATION ABOUT THIS CASE OR CONDUCT YOUR OWN RESEARCH ON THE CASE. Do not conduct <u>any</u> research into the case (or anyone participating in the case) at any time before your entire jury service has been completed. That includes performing Internet searches, asking other people about the case, reading news stories, books, or reports about the case, or watching films or television programs that relate to the case.

Juror II	D :	

SUMMARY OF THE CASE

The Court is selecting a jury for an approximately four-week trial beginning April 22, 2022. The trial should end by around Friday, May 20, but may last a few days less or more. We generally will not sit on Fridays.

This is a civil antitrust case brought by Plaintiff US Airways, Inc. against three defendants (collectively "Sabre"). U.S. Airways is an airline. Sabre operates a computerized service for certain travel agents to, among other things, book airline tickets.

US Airways contends that Sabre harmed competition and engaged in unlawful monopolization in violation of the federal antitrust laws through certain exclusionary actions. Sabre disputes this contention and denies that it harmed competition, engaged in unlawful monopolization, or committed exclusionary actions.]

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N				Juror ID:
. 4	lame:			
	First		Middle/Maiden	Last
	Vhat borough or county d			
	o you live in Queens, Bro		nd? □Yes	□No
	Vhat is your age?			
	What is your current empl	•		
				Looking for work (for how long?
	☐ Student ☐ Disabled	☐ Retired	☐ Self-employed	☐ Unemployed (for how long?)
	Vhat is your current occupes escribe the last job you he	• •		looking for work, or a homemaker, please
Ξ	mployer:			
l	ob title:		How long you	have you held this position:
(ob duties/responsibilities:	:		
	ist other jobs you have he Iso briefly describe the jo	•		loyment, beginning with the most recent. Pleawere a supervisor.
		Approx. Dates		
	Employer	of Employment	Jobs Held	Duties
ļ		Employment		
- 1				

						July	JI ID	
8.	Who lives with you? (<i>Please check</i>			agos:	□ Do	ommata(s) 🗇 Li	vo Alo	n o
☐ Spouse or Domestic Partner ☐ Child								
9.	What kind of work do the member	s of your h	ousehol	d do; or if retire	ed, what o	did they do?		
10.	Have you ever owned or operated							
	If YES , please describe:							
	Years of operation:	<u> </u>						
	If the business is not still operating	, what is th	ne reaso	n?				
11.	Have you ever worked in a job tha	t paid comi	mission	Yes 🗆 N	No			
12.	Do you, a family member, or anyon following?	ne close to	you hav	e experience, e	ducation,	or training involv	/ing an	y of the
	Contracts (drafting, negotiating, reviewing)	☐ Self	☐ Fa	mily member	☐ Som	neone close	□ No	
	Law	☐ Self	☐ Fa	mily member	☐ Som	neone close	□ No	
	Marketing	☐ Self		mily member			□ No	
	Sales	☐ Self		mily member			□ No	
	Information Technology	☐ Self		mily member			⊒ No	
	Computer Programming	☐ Self		mily member			□No	
	Websites	☐ Self		mily member			□No	
	Hospitality	☐ Self		mily member			□No	
	Airlines/Air Travel	☐ Self		mily member			□No	
	Negotiations	☐ Self		mily member			□No	
	Accounting	☐ Self		mily member			□No	
	Broker	☐ Self	ш ға	mily member	□ Som	neone close	□ No	
	If YES , please identify the person a	nd explain:						
	Please describe the training or exp	erience in a	any area	s checked abov	e for you	, a family membe	r, or so	omeone close
	to you:							
	•							
13.	Have you, a family member, or any apply)? If YES , please explain belo		to you e	ver been emplo	yed by a	ny of the followin	g (chec	ck all that
	Airline	E	□ Self	☐ Family me	mber	☐ Someone clo	se	□ No
	Traditional travel agent/agency (e.g., American Express)		□ Self	☐ Family me	mber	☐ Someone clo	se	□ No
	Online booking site (e.g., Expedia, Orbitz, Priceline)	C	□ Self	☐ Family me	mber	☐ Someone clo	se	□ No
	Other internet travel site	C	⊒ Self	☐ Family me	mber	☐ Someone clo	se	□ No
	American Airlines, America West	C	⊒ Self	☐ Family me	mber	☐ Someone clo	se	□ No
	US Airways	C	⊒ Self	☐ Family me	mber	☐ Someone clo	se	□ No

				Juror ID:	
	Sabre	☐ Self	☐ Family member	☐ Someone close	□ No
	Travelport, Worldspan, Galileo	☐ Self	☐ Family member	☐ Someone close	□ No
	Amadeus	☐ Self	☐ Family member	☐ Someone close	□ No
	Travel industry	☐ Self	, ☐ Family member	☐ Someone close	□ No
	Government agency regulating airlines	□ Self	☐ Family member	☐ Someone close	□ No
	, ,		•		
	If YES , please identify the person and expla	·			
	How many years of employment:		Name of employer:		
	If YES for a second person, please identify t				
	How many years of employment:		Name of employer:		
14.	Have you, a family member, or anyone clos	se to you e	ver had business dealing	gs with America West, I	US Airways, or
	American Airlines?	a family n	nember has 🔲 Yes, so	meone close has 🔲 🗅	No
	If YES , please identify the person, which co	mnany and	d explain:		
	in 125, prease identity the person, which eo	mpany and	а схрічні. <u> </u>		
					
15.	Have you ever flown on US Airways?				
4.0	Were your experiences generally: ☐ Positi		_		
16.	Have you heard of a company called Sabre, agencies, airlines and other travel-related by			des software and servic	ces to travel
	If YES , please explain what you heard:				
17	Have you, a family member, or anyone clos	se to vou e	ver had husiness dealing	s with Sahre?	
_,.	☐ Yes, I have ☐ Yes, a family memb	•	☐ Yes, someone close		
	,		,		
	If YES , please identify the person and expla	in:			
18.	Do you directly own, or have you ever directly	ctly owned	l, stock in US Airways, A	merican Airlines, or Sab	ore?
	☐ Yes ☐ No				
	If YES , which one(s):				
19.	How often did you fly on a commercial airp	lane befor	re the 2020 pandemic?		
	☐ Very often ☐ Often ☐ Sometim		Rarely		
	Was your flying: Mostly business N		• •		
21.	How satisfied have you been with your exp			ic?	
	☐ Satisfied ☐ Neutral ☐ Unsatisfie		ave not flown		
22.	Which do you use to make airline reservati				
	☐ Travel search sites (e.g., Expedia, Travelo ☐ Airline websites	ocity, Kaya	k). If YES , which one(s):		
	☐ Airline telephone reservations				
	☐ American Express Travel				

	Jaiot 15
	□ Local travel agent/agency □ Cruise or tour company □ My company's travel agent □ Other (please specify:)
23.	Do you have one preferred airline?
	If YES, what airline?
24.	Which of the following do you think typically has the lowest ticket price?
	☐ Airline websites ☐ Online travel websites ☐ Other: ☐ Unsure
25.	What are the most important travel options that you consider when you are booking your own reservations? (e.g., which airline, flight times, seating, prices, etc.)
26.	What social, civic, professional, labor (including unions), religious, or other organizations do you participate in?
27.	Are you a leader in any of these organizations? ☐ Yes ☐ No
28.	Please name where you get your news, i.e., the name of the newspapers, magazines, websites or news apps:
29.	What topics do you enjoy reading about in newspapers, books, or magazines?
30.	What sort of things do you do in your spare time?
31.	Have you or a member of your household ever been involved in a lawsuit or claim? (Check all that apply) Yes, filed lawsuit Yes, been sued No Yes, given a deposition and/or testified in court
	If YES: Please explain who was involved, the circumstances, and how the lawsuit or claim was resolved:
	Did anything happen during the lawsuit or claim that might affect your ability to be fair and impartial in this case? \square Yes \square No
	If YES, please explain:
32.	Have you ever served on a jury? □ Yes □ No If YES , how many times?
	If YES, did anything happen during jury service that might affect your ability to be fair and impartial in this case?
	□ Yes □ No
	If YES, please explain:

Juror ID: _____

	Civil or Criminal	Type of Case (e.g. personal injury, homicide, etc.)	Did you reach a verdict, did the jury hang, or was the case settled?	Were you the jury foreperson? (Y/N)			
3.	Have you ever	served on a grand jury? 🔲 Yes 🔲 No					
	If YES , did anyt this case?	hing happen during your time as a grand Yes No	d juror that might affect your ability to b	e fair and impartial i			
l	If YES , please e	xplain:					
-							
	,	grand jury foreperson?					
4.	Have you read	or heard anything about this lawsuit be	tween US Airways and Sabre? 🗖 Yes 🛭	ఎ No □ Unsure			
I	Please describe	e what you have read or heard:					
6. I	Is there anythi	e what you have read or heard: ng about the nature of the arguments su t for you to consider the evidence, the a	ummarized on the first page or the partion	es involved that will			
		n open mind?	, ,				
I	If YES , please e	xplain:					
-							
		ny difficulty speaking or reading the Engl					
		RE, please explain:					
8. 1	Do you have any difficulty with your sight or hearing that could affect your perception of the trial?						
	☐ Yes ☐ No						
ı	If YES or UNSU	RE, please explain:					
9. 1	Do you or a family member have a medical condition that may interfere with your ability to serve as a juror?						
	☐ Yes ☐ No						
ı	If YES or UNSU	RE, please explain:					
0. /	Are you the primary caretaker for someone in need of daily care or assistance? \Box Yes \Box No						
I	If YES , please e	xplain:					

					Juror ID:				
42. This trial is expected to las		st approximately four	weeks beginning Frid	lay April 22, 2022, and	I continuing Monday to				
	·	fter. Do you have a severe hardship that would prevent you from serving as a juror in this case?							
	☐ Yes ☐ No ☐ Unsure								
	Li yes Li No Li Unsure	2							
	If YES or UNSURE , please	explain:							
43.	Is there any reason (e.g.,		ical) you would you fi	nd it difficult to serve	as fair and impartial juror				
	in this case? Yes I	No 🖵 Unsure							
	Please explain:								
	·								
					_				
44.	Is there anything else tha	t you think the Court	or the parties should I	know about you? 🗖 \	'es □ No □ Unsure				
	If YES or UNSURE , please	explain:							
	explain the nature of the Companies: US Airways American Airlines Sabre Travelport Amadeus Orbitz	Trachtenberg Rod O'Melveny & Mye Yetter Coleman, Li	es & Friedberg LLP rs LLP	Cleary Gottl	os, Slate, Meagher & Flom LLP ieb Steen & Hamilton LLP aine & Moore LLP				
	Individuals:								
	Al Lenza	David Gross	Jeremy Wertheimer	Madeline Gray	Robert Topel				
	Alex Zoghlin	David Korn	Joel Smith	Madhu Pocha	Rory Leraris				
	Andrew Frackman	David Trachtenberg	Joelle Cuvelier	Mark Burgoz	Rosa ("Romy") Abrantes- Metz				
	Andrew Menkes	Derek Moore	John Gustafson	Mark Zmijewski	Rose Stratford				
	Andrew Nocella	Dhiren Fonseca	John Stow	Matt Beatty	Ryan Travers				
	Andrew Winterton	Dirk Guenther	Joseph Stiglitz	Matt Cummings	Sam Gilliland				
	Anton Melitsky	Douglas Parker	Julia York	Matthew Beatty	Scott Kirby				
	Beverly Goulet	Evan Chesler	Katrina Robson	Mia Gonzalez	Sean Menke				
	Bill Brindle	Evan Kreiner	Kay Dannenmaier	Michael Harbin	Sergei Zaslavsky				
	Boris Bershteyn	Evan Levicoff	Keith Wallis	Michael Koetting	Seth Perelman				
	Brett Berman	Gavin Malloy	Kenneth Reinker	Michael Schmeltzer	Shelly Terry				
	Bridget Blaise-Shamai	George Cary	Kevin Murphy	Mike Qualantone	Stephen Arena				
	Bryce Callahan	Glenn Wallace	Kevin Orsini	Patrick Fitzgerald	Steve Praven				
	Candi Clarke	Graham Wareham	Kim Jirrels	Patrick Jones	Steve Sunshine				

Peter Barbur

Steven Kaiser

Larry Work-

Dembrowski

Greg Webb

Carl Malm

				Juror ID:
Charles Sultan Chris Kroeger Chris Wilding Dan Garton Daniel Kasper David Carney	Henry Thumann Hugh Jones Ian Simmons James Davidson Jason Toothman Jay Jones	Lea Cahill Lev Dassin Lindsey Sieling Lissa Bloomgren Louis Dudney Madeline Gray	Peter Moll R. Paul Yetter Raj Varadarjan Rich Lowry Robert Brown Robert Jensen	Susanna Allen Tara Reinhart Timothy O'Neil-Dunne Todd Richmond Tom Klein Tom Trenga Tyler Young William Hopping Wyatt Dowling
Explain nature o	f relationship:			
		DECLARATION		
I,(print name)		nalty of perjury that		
	naire are true and correct or received assistance in		stionnaire.	I have not discussed my
			Signed this	day of April, 2022
				(signature)

Julio ID	
You may use this space to finish any answers which you could not fit in the spaces provided above (include Q number):	